



FAQs for Special Education Issues Resulting from Hurricane Harvey

1. If a student with a disability transfers to my district from a hurricane affected district, what transfer requirements apply?

If the new student enrolling on your campus is being relocated due to Hurricane Harvey, remember to register the student with Crisis Code 5 when they enroll in your school. This will help us to track students who need additional assistance.

The Individuals with Disabilities Education Act (IDEA), section 614(d)(2)(C) contains specific language regarding what is required for students who have transferred to another school district. This provision requires the new district to provide services comparable to those in the previous district's Individual Education Program (IEP), (which presumes that the new district has access to the previous IEP) and requires districts to take reasonable steps to promptly obtain a child's records and to respond to those requests for records. For children whose previous IEPs are not immediately available but who are believed to have a disability and be in need of special education and related services, a temporary IEP can be developed with the agreement of the parent. If the parent does not agree, the child should be enrolled in the regular school program until appropriate evaluations and eligibility determinations have been made, unless the parent and the school district personnel agree on some other arrangement.

A Free, Appropriate Public Education (FAPE) is required to be provided for all students with disabilities. If a parent reports a child has received services in the past, though records are not present, serve the student as though s/he has a disability and determine which services to provide using the best information available including student and parent interviews, and then follow the regular records request procedures in the Texas Records Exchange (TReX) to verify the student's need for special education services. Districts should apply the timeline under 19 Texas Administrative Code (TAC), §89.1050 (j)(1) in completing the requirements for when IEPs must be in place, that being 30 school days from the date the student is verified as being a student eligible for special education services.

If there are deviations from legally established timelines, please document in the student's folder all reasonable efforts made to follow timelines.

2. What if a student's annual Admission Review and Dismissal (ARD) date is not met due to school closures, inaccessible records, or other hurricane related issues?

Districts should proceed with holding annual ARD committee meetings within timelines. If a student's IEP is not present, follow the regular records request procedures in TReX for obtaining the IEP. If an annual IEP lapses before an ARD committee convenes, reasonable efforts should be made to expedite scheduling a new annual ARD committee meeting date to ensure FAPE is provided.

If there are deviations from legally established timelines, please document in the student's folder all reasonable efforts made to follow timelines.

3. What if a student's triennial evaluation date is not met due to school closures, inaccessible records, or other hurricane related issues?

Districts should proceed with completing reevaluations within timelines. Missed triennial evaluations should be completed as soon as possible.

If there are deviations from legally established timelines, please document in the student's folder all reasonable efforts made to follow timelines.

4. What if a student's initial evaluation process has been affected due to school closures, inaccessible records, or other hurricane related issues?

Initial evaluations should be completed in accordance with 19 TAC §89.1011.

School closure dates are not counted in the 45-school day timeline for initial evaluation timelines; however, districts should make reasonable efforts to expedite timelines once schools resume so not to delay provision of services and FAPE if the student is determined eligible. Child Find efforts and requirements under 34 Code of Federal Regulation (CFR), §300.111 Child find, and 19 TAC §89.1011(a)-(b) must still be made.

If there are deviations from legally established timelines, please document in the student's folder all reasonable efforts made to follow timelines.

5. What if early childhood transition services and timelines have been affected due to school closures, inaccessible records, or other hurricane related issues?

As outlined above, Early Childhood Intervention Services (ECI) referrals, evaluations, IEP implementation timelines, and FAPE requirements for children beginning at age 3 outlined in 34 CFR §300.101(b).

School closure dates are not applicable for Part C ECI to Part B IDEA evaluation timelines, and districts should make reasonable efforts to expedite timelines once school resumes, so as not to delay provision of services and FAPE if the student is determined eligible.

If there are deviations from legally established timelines, please document in the student's folder all reasonable efforts made to follow timelines.

6. How can my district help expedite transfer of records?

Districts should make their best attempt to obtain records from the district in which the student was previously enrolled. Typically, records are returned quickly. In accordance with Texas

Education Code (TEC), §25.002, and 34 CFR, §300.323(g), the school district in which the student was previously enrolled must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the 10th working day after the date a request for the information is received by the previous school district. However, during times of disaster, the district may not be able to respond within the ten-day timeline. Please refer to Question One for directions when records are not available.

Districts who have been affected by the hurricane, at which time they are able, should respond as soon as reasonably possible to records requests in the TReX system.

If there are deviations from legally established timelines, please document in the student's folder all reasonable efforts made to follow timelines.

7. What if changes to IEPs are required due to changes in campus assignment, daily schedules, etc. relating to school/campus closures, or other hurricane related issues?

Provide the student with FAPE as soon as possible. An ARD committee is only required to convene for changes in eligibility or placement (i.e. instructional arrangement changes – mainstream to resource or other changes constituting change of placement resulting from discipline/behavior issues). Other changes to the IEP may be made through ARD amendment as outlined in 34 CFR §300.324(a)(4).

Districts who are applying temporary changes to locations, schedules, etc. should inform parents of the temporary nature and proceed with providing FAPE until permanent actions are determined.

If there are deviations from legally established timelines, please document in the student's folder all reasonable efforts made to follow timelines.